

CITY COUNCIL REPORT



Meeting Date: March 3, 2015
 Charter Provision: *Designate CPAs to perform an independent annual audit of the City's financial statements.*
 Objective: *Approve Financial Statement Audit Services Contract*

ACTION

Financial Statement Audit Services Contract. Adopt Resolution No. 10045 to award the financial statement audit services contract No. 2015-052-COS to Heinfeld, Meech & Co., P.C.

BACKGROUND

City Charter Article 6 §14 makes the City Council responsible for selecting an independent certified public accountant to conduct the City's annual financial statement audit. The audit is to be conducted in accordance with generally accepted government auditing standards, and the reports are submitted to the Council as a matter of public record.

On April 8, 2014, City Council approved extending the existing contract for completion of the FY 2013/14 audit, but directed the City Auditor to request proposals for future financial audit services.

The audit firm examines the following reports prepared by the City Treasurer's Office:

- the City's Comprehensive Annual Financial Report (CAFR), and
- the annual financial reports of the City's seven component units: the Municipal Property Corporation, the Scottsdale Preserve Authority and 5 Community Facilities Districts.

In addition, for the City to meet certain federal funding requirements, the audit firm also reports on:

- the City's schedule of expenditures of federal assistance and related compliance (called a "Single Audit" report), and
- for the City's federally-assisted housing programs, a Housing and Urban Development (HUD) required financial schedule and related data submitted in the Real Estate Assessment Center (REAC) staging database.

Further, to meet certain state funding requirements, the CPA firm reports on the City's:

- Annual Expenditure Limitation Report (AELR), and
- compliance with Highway User Revenue Fund (HURF) authorized uses.

The City Auditor issued a request for proposals on December 15, 2014, with the final proposal due date of January 9, 2015. The Evaluation Committee scored the four proposals received on the criteria of expertise and experience, technical approach, pricing and references. Based on this evaluation, the City Auditor recommends awarding the contract to Heinfeld, Meech & Co., P.C.

ANALYSIS & ASSESSMENT

Policy Implications

The award of this auditing services contract ensures compliance with the City Charter and the identical Council-adopted financial policy.

As well, Arizona Revised Statutes §9-481 requires cities to have an annual audit by an independent certified public accountant each fiscal year, with the audit report to be submitted within six months after the close of the fiscal year. The audit report is to include an opinion on the financial statements and a determination regarding whether highway user revenue fund monies and any other dedicated state transportation monies are being used solely for authorized transportation purposes. One copy of the audit report is to be open for public inspection.

Arizona Revised Statutes §9-482 provides that contracts for such audits may be entered into without competitive bidding, but the City Auditor has applied a competitive bidding process in selecting the CPA firm to recommend.

This recommended contract represents a change in auditor. The contract has a one-year term with four available one-year extensions, subject to Council approval.

RESOURCE IMPACTS

Available funding

Funding for the \$88,380 contract cost for the FY 2014/15 financial statement audit and related services described in the contract has been included in the City Auditor's budget. Because preliminary audit work begins prior to fiscal year end, part of this funding is in the City Auditor's FY 2014/15 budget, with the remainder in the City Auditor's proposed FY 2015/16 budget. This cost is slightly lower than the prior year's audit cost.

Staffing, Workload Impact

As the annual financial statement audit is a requirement of City Charter and Code, it is incorporated into the workload of existing City staff.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Approve Resolution No. 10045 authorizing the awarding the one-year contract No. 2015-052-COS with Heinfeld, Meech & Co., P.C., for the audit of the City's FY 2014/15 financial statements and related services as described in the contract.

Description of Option B

Not approve Resolution No. 10045 awarding contract No. 2015-052-COS and direct the City Auditor to rebid these auditing services. This option would delay issuance of the City's audited financial statements.

Proposed Next Steps

Execute the one-year contract with Heinfeld, Meech & Co., P.C., and coordinate with the City Treasurer's Office and the CPA firm to schedule the FY 2014/15 financial audit for timely completion.

RESPONSIBLE DEPARTMENT

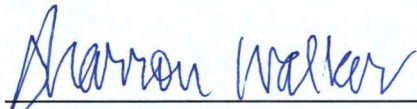
City Auditor's Office

STAFF CONTACTS


Kyla Anderson, Senior Auditor, KyAnderson@ScottsdaleAZ.gov

Sharron Walker, City Auditor, SWalker@ScottsdaleAZ.gov

APPROVED BY



Sharron Walker, City Auditor



Date

(480) 312-7867, SWalker@scottsdaleaz.gov

ATTACHMENTS

1. Resolution 10045
2. Contract No. 2015-052-COS

RESOLUTION NO. 10045

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2015-052-COS BETWEEN THE CITY AND HEINFELD MEECH & CO., P.C. FOR FINANCIAL STATEMENT AUDIT SERVICES

WHEREAS, the City of Scottsdale wishes to contract for financial statement audit services; and

WHEREAS, following a competitive bid process, the firm of Heinfeld Meech & Co., P.C. has been recommended for a contract award;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

Section 1. The Mayor is hereby authorized and directed to execute Contract No. 2015-052-COS between the City and the firm of Heinfeld Meech & Co., P.C. for financial statement audit services.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 3rd day of March 2015.


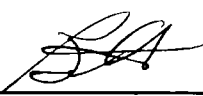
CITY OF SCOTTSDALE, an
Arizona municipal corporation

ATTEST:

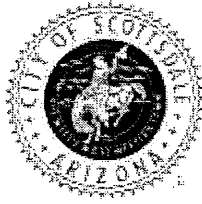
By: _____
W. J. "Jim" Lane, Mayor

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

Bruce Washburn, City Attorney
By: Steven Bennett
Deputy City Attorney



**CITY OF SCOTTSDALE
PROFESSIONAL SERVICES CONTRACT**

THIS CONTRACT, entered into this 3rd day of March, 2015, between the City of Scottsdale, an Arizona municipal corporation, the "City", and Heinfeld, Meech & Co., P.C., the "Consultant".

WITNESSETH

The Mayor of the City of Scottsdale is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

The City desires to contract for financial statement audits and related services; and

The Consultant is duly qualified to perform the requested services;

In consideration of the mutual promises and obligations stated in this Contract, the parties agree as follows:

1.0 DESCRIPTION, ACCEPTANCE, DOCUMENTATION

Consultant will act under the authority and approval of the Contract Administrator for the City, as named below, to provide the professional services required by this Contract.

1.1 SERVICE DESCRIPTION

The entire Request for Proposal No. 15RP019 identified as Financial Statement Audit Services is incorporated into this Contract by this reference as fully as if written out below. Consultant's proposal submitted in response to Request for Proposal Number 15RP019 and dated January 6, 2015, is incorporated into this Contract by this reference as fully as if written out below.

If any provision incorporated by reference from the Request for Proposal conflicts with any provision of the Consultant's proposal, the provision of the Request for Proposal will control. If any provision of the Consultant's proposal conflicts with any provision of this Contract, this Contract will control.

The work schedule will generally follow section 8.1, *Work and Conference Schedule for the Fiscal Year Audit* of the Request for Proposal; however a detailed schedule shall be approved by the Contract Administrator in April each year.

1.2 ACCEPTANCE AND DOCUMENTATION

- A. Each task must be reviewed and approved by the Contract Administrator to determine acceptable completion.
- B. The City will provide all necessary information to the Consultant for timely completion of the tasks specified in Section 1.1 above.
- C. All reports which are prepared in the performance of this Contract are to be and remain the property of the City and are to be delivered to the Contract Administrator before final payment is made to the Consultant.

2.0 BILLING RECORDS, AUDIT, FEES

2.1 BILLING RECORDS, AUDIT

Consultant must maintain all books, papers, documents, accounting records and other evidence pertaining to time billed and to costs incurred and makes these materials available for audit by the City in accordance with Section 4.7 of this Contract.

2.2 FEE SCHEDULE

The Consultant will be paid according to the following schedule as submitted in the Consultant's proposal dated January 6, 2015:

Fiscal Year Ending	Total
June 30, 2015	\$88,380
June 30, 2016 *	\$91,000
June 30, 2017 *	\$93,750
June 30, 2018 *	\$96,550
June 30, 2019 *	\$99,500

*Contract extension subject to approval by City of Scottsdale

The total amount is inclusive of all expenses under this Contract. The Consultant may submit work in progress billings for services rendered together with applicable documentation as directed by the Contract Administrator.

Amounts indicated in Section 2.2 represent the entire amounts payable under this Contract.

Rates for Additional Professional Services

If it should become necessary for the City to request the Consultant to render any additional services to either supplement the services requested in this Contract or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in a change order to the contract between the City and the Consultant. Any such additional work agreed to between the City and the Consultant shall be performed at the same rates set forth in the schedule of fees and expenses as provided in Exhibit A.

2.3 PAYMENT APPROVAL

All charges must be approved by the Contract Administrator before payment.

Manner of Payment

Progress billings and related payments will be made on the basis of work completed during the course of the engagement in accordance with the firm's pricing section of the proposal. The first progress billing shall cover all work completed before the end of the fiscal year being audited (June 30) and shall be submitted within ten business days thereafter for payment. Final payment will be made upon delivery of each final report, data collection form, or other submittal as described in the Scope of Work in the Request for Proposal.

2.3.1 PAYMENT TERMS

The City of Scottsdale's payment terms are payment within thirty (30) days after approval by Contract Administrator. In no event will payment be made prior to receipt of an original invoice containing invoice and proper reference numbers. The City is not liable for delays in payment caused by failure of Consultant to send invoice to the address specified below:

City of Scottsdale
City Auditor
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251-4468

3.0 TERM, EXTENSION, TERMINATION

3.1 TERM AND EXTENSION

The term of this Contract is for a one (1) year period and will expire on March 2, 2016. This Contract must be approved by the City Council of the City of Scottsdale, Arizona, and signed by its Mayor and attested by the City Clerk. The City and Consultant may mutually agree to extend this Contract for four (4) more one (1) year periods upon the recommendation of the Contract Administrator and the concurrence of the Purchasing Director and reauthorization by a specific Council action.

3.2 TERMINATION

Termination for Convenience: City reserves the right to terminate this Contract or any part of this Contract for its sole convenience with thirty (30) days' written notice. In the event of any termination, Consultant must immediately stop all work, and must immediately cause any of its suppliers and Subcontractors to cease all work. As compensation in full for services performed to the date of termination, the Consultant will receive a fee for the percentage of services actually completed. This fee will be in the amount to be mutually agreed upon by the Consultant and the City, based on the agreed Scope of Work. If there is no mutual agreement, the Contract Administrator will determine the percentage of completion of each task detailed in the Scope of Work and the Consultant's compensation will be based upon this determination.

The City will make this final payment within sixty (60) days after the Consultant has delivered the last of the partially completed items. Consultant will not be paid for any work done upon receipt of the notice of termination, nor for any costs incurred by Consultant's suppliers or Subcontractors, which Consultant could reasonably have avoided.

Cancellation for Cause: City may also cancel this Contract or any part of this Contract with seven (7) days' notice for cause in the event of any default by the Consultant, or if the

Consultant fails to comply with any of the terms and conditions of this Contract. Unsatisfactory performance as judged by the Contract Administrator and failure to provide City, upon request, with adequate assurances of future performance will all be causes allowing City to cancel this Contract for cause. In the event of cancellation for cause, City will not be liable to Consultant for any amount, and Consultant will be liable to City for any and all damages sustained by reason of the default which gave rise to the termination.

In the event Consultant is in violation of any Federal, State, County or City law, regulation or ordinance, the City may cancel this Contract immediately upon giving notice to the Consultant.

If the City cancels this Contract or any part of the Contract services, the City will notify the Consultant in writing, and upon receiving notice, the Consultant must discontinue advancing the work and proceed to close all operations. Upon cancellation, the Consultant must deliver to the City all reports and other documents, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all documentation supplied by the City. Use of incomplete data will be at the City's sole responsibility.

The Consultant must appraise the work it has completed and submit its appraisal to the City for evaluation. At that time, the Consultant will be entitled to be paid for Work performed and accepted by the City before the default.

If the Consultant fails to fulfill in a timely and proper manner its obligations, or if the Consultant violates any of the terms of this Contract, the City may withhold any payments to the Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined by a court of competent jurisdiction.

If the City improperly cancels the Contract for cause, the cancellation for cause will be converted to a termination for convenience in accordance with the provisions of this Section.

3.3 FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for charges, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice of termination to the Consultant at least thirty (30) days before the end of its current fiscal period and will pay to the Consultant all approved charges incurred through the end of this period.

4.0 GENERAL TERMS

4.1 ENTIRE AGREEMENT

This Contract constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the specified services. This Contract may not be modified or amended except by a written document, signed by authorized representatives of each party.

4.2 ARIZONA LAW

This Contract is governed and interpreted according to the laws of the State of Arizona.

4.3 MODIFICATIONS

Any amendment, modification or variation from the terms of this Contract must be in writing and will be effective only after approval of all parties signing the original Contract.

4.4 ASSIGNMENT

Services covered by this Contract may not be assigned or sublet in whole or in part without first obtaining the written consent of the Purchasing Director and Contract Administrator.

4.5 SUCCESSORS AND ASSIGNS

This Contract extends to and is binding upon Consultant, its successors and assigns, including any individual, company, partnership or other entity with or into which Consultant merges, consolidates or is liquidated, or any person, corporation, partnership or other entity to which Consultant sells its assets.

4.6 CONTRACT ADMINISTRATOR

The Contract Administrator for the City will be Sharron Walker, City Auditor, or designee. The Contract Administrator will oversee the execution of this Contract, assist the Consultant in accessing the organization, receive billings, approve payments, establish delivery schedules, approve addenda, and assure Certificates of Insurance are in City's possession and are current and conform to the Contract requirements. The Consultant must channel reports and special requests through the Contract Administrator.

4.7 RECORDS AND AUDIT RIGHTS

The City may audit all of the Consultant's records, calculations, and working documents pertaining to this work at a mutually agreeable time and place.

Consultant's records (hard copy, as well as computer readable data), and any other supporting evidence considered necessary by the City to substantiate charges and claims related to this Contract must be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Consultant or any of his payees in accordance with the execution of the Contract. The City's authorized representative must be afforded access, at reasonable times and places, to all of the Consultant's records and personnel in accordance with the provisions of this section throughout the term of this Contract and for a period of five (5) years after last or final payment.

Consultant must require all Subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this section by insertion of these requirements in a written Contract Agreement between Consultant and payee. These requirements will also apply to any and all Subcontractors.

If an audit in accordance with this section, discloses overcharges, of any nature, by the Consultant to the City in excess of 1% of the total Contract billings, the actual cost of the City's audit must be reimbursed to the City by the Consultant. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Consultant's invoices and/or records must be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of City's findings to Consultant.

4.8 ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default, the prevailing party will be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will be considered to have accrued on the commencement of the action and will be enforceable whether or not such action is prosecuted to judgment.

4.9 INELIGIBLE BIDDER

The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

4.10 CONFLICT OF INTEREST

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any person or persons, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, brokerage fee, gifts or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City will have the right to cancel this Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of any fee, commission, percentage, brokerage fee, gift or contingent fee, together with costs and attorney's fees.

The City may cancel any Contract or Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City's departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a Consultant to any other party to the Contract with respect to the subject matter of the Contract. The cancellation will be effective when written notice from the City is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

4.11 NOTICES

All notices or demands required to be given in accordance with the terms of this Contract must be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses stated below, or to any other address the parties may substitute by written notice given in the manner prescribed in this section.

In the case of Consultant:

Jill A. Shaw
Heinfeld, Meech & Co., P.C.
3033 N. Central Avenue, Suite 300
Phoenix, AZ 85012

In the case of City:

Sharron Walker
City Auditor
7447 E. Indian School Road, Suite 205
Scottsdale, AZ 85251-4468

Notices will be considered received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail. Notice by facsimile or electronic mail is not adequate notice.

4.12 FORCE MAJEURE

Neither party will be responsible for delays or failures in performance resulting from acts beyond their control. These acts include, but are not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

4.13 TAXES

Consultant is solely responsible for any and all tax obligations which may result out of the Consultants performance of this Contract. The City has no obligation to pay any amounts for taxes, of any type, incurred by the Consultant.

4.14 ADVERTISING

No advertising or publicity concerning the City using the Consultant's services shall be undertaken without first obtaining the written approval for the advertising or publicity by the City Contract Administrator.

4.15 COUNTERPARTS

This Contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract will be considered to possess the full force and effect of the original.

4.16 CAPTIONS

The captions used in this Contract are solely for the convenience of the parties, do not constitute a part of this Contract and are not to be used to construe or interpret this Contract.

4.17 SUBCONTRACTORS

During the performance of the Contract, the Consultant may engage any additional Subcontractors as may be required for the timely completion of this Contract. The addition of any Subcontractors requires that the Consultant first obtain the approval of the City.

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Consultant.

The Consultant will pay its Subcontractors within seven (7) calendar days of receipt of each progress payment from the City. The Consultant will pay for the amount of the Work performed by each Subcontractor as accepted and approved by the City with each progress payment. In addition, any reduction of retention, if any, by the City will result in a corresponding reduction to Subcontractors who have performed satisfactory work. The Consultant will pay Subcontractors the reduced retention within fourteen (14) calendar days of the payment of the reduction of the retention to the Consultant. No Contract between the Consultant and its Subcontractors may materially alter the rights of any Subcontractor to receive prompt payment and retention reduction as provided in this Contract.

If the Consultant fails to make payments in accordance with these provisions, the City may take any of one or more of the following actions and the Consultant agrees that the City may take these actions:

- A. To hold the Consultant in default under this Contract;
- B. Withhold future payments including retention until proper payment has been made to Subcontractors in accordance with these provisions;
- C. Reject all future offers to perform work for the City from the Consultant for a period not to exceed one (1) year from the completion date of this project; or
- D. Cancel this Contract.

4.18 CHANGES IN THE WORK

The City may at any time, as the need arises, order changes within the scope of the work without invalidating the Contract. If any changes increase or decrease the amount due under the Contract documents, or in the time required for performance of the work, an equitable adjustment will be authorized by written Change Order.

The City will execute a formal Change Order based on detailed written quotations from the Consultant for work related to changes and/or a time of completion variance. All Change Orders are subject to approval by the City.

Contract Change Orders are subject to the Rules and Procedures within the City's Procurement Code.

4.19 CO-OP USE OF CONTRACT

In addition to the City of Scottsdale, this Contract may be extended for use by other municipalities, government agencies and governing bodies, including the Arizona Board of Regents, and political subdivisions of the State. Any usage by other entities must be in accord with the ordinances, charter and/or rules and regulations of the respective entity and the approval of the Consultant.

4.20 COMPLIANCE WITH FEDERAL AND STATE LAWS

The Consultant understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. In addition, the Consultant understands and acknowledges the applicability of A.R.S. §34-301 and 34-302.

4.21 IMMIGRATION LAW COMPLIANCE

Under the provisions of A.R.S. §41-4401, the Consultant warrants to the City that the Consultant and all its Subcontractors will comply with all Federal Immigration Laws and regulations that relate to their employees and that the Consultant and all its Subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Consultant or any of its Subcontractors will be considered a material breach of this Contract and may subject the Consultant or Subcontractor to penalties up to and including termination of this Contract or any subcontract. The Consultant will take appropriate steps to assure that all Subcontractors comply with the requirements of the E-Verify Program. The Consultant's failure to assure compliance by all its Subcontractors with the E-Verify Program may be considered a material breach of this Contract by the City.

The City retains the legal right to inspect the papers of any employee of the Consultant or any Subcontractor who works on this Contract to ensure that the Consultant or any Subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Consultant and any of its Subcontractors to ensure compliance with this warranty. The Consultant agrees to indemnify, defend and hold the City harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

4.22 LAWFUL PRESENCE IN THE UNITED STATES FOR PERSONS

A.R.S. §1-502 (H.B. 2008) requires that all PERSONS who will be awarded a Contract and apply for public benefit must demonstrate through a signed affidavit and the presentation of a copy of documentation that verifies that they are lawfully present in the United States.

A PERSON is defined as all NATURAL PERSONS / INDIVIDUALS / SOLE PROPRIETORSHIPS as indicated by your W9 Filing. *(This law does not apply to LLP's, LLC's, PLLC's, Corporations Limited Partnerships or General Partnerships)*

By submitting your quote, bid, proposal and/or indicating your desire to enter in a Contract with the City, you are agreeing that if you are selected as the awardee and meet the criteria of a PERSON, you will abide by this law and sign and submit an AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES and attach the appropriate copy of your documentation to verify of that statement. Types of acceptable documentation copies are an Arizona Driver's License issued after 1996, Arizona nonoperating identification license, U.S. birth certificate, U.S. Passport, I-94 Form with photograph and several others that are all listed on the Affidavit form that the City will send to you for your completion before to issuing any Contract.

If you have previously done business with the City and have already filed the above Affidavit with copies of an acceptable documentation please indicate when you filed the Affidavit. If your approved Affidavit is already on file with the City, you have complied with this requirement.

If you fail to provide a completed Affidavit and accompanying copy of your acceptable documentation, or if you do not advise the City of your previous filing within ten (10) calendar days after receiving the City's request you may be considered non responsive and disqualified from that award consideration. You can obtain the complete Affidavit form from the City's Purchasing Department at (480) 312-5700 or the City's website at <http://www.scottsdaleaz.gov/Purchasing> on the Vendor Resources page at the bottom right under Forms.

4.23 NO PREFERENTIAL TREATMENT OR DISCRIMINATION

In accordance with the provisions of Article II, Section 36 of the Arizona Constitution, the City will not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin.

4.24 INDEMNIFICATION

To the fullest extent permitted by law, Consultant, its successors, assigns and guarantors, must defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Consultant relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and Subcontractor's employees.

Insurance provisions stated in this Contract are separate and independent from the indemnity provisions of this section and must not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section must not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.25 OWNERSHIP OF PROJECT DOCUMENTS

All documents, including but not limited to notes, records, data compilations, studies, and reports in any format, including but not limited to, written or electronic media, prepared in the performance of this Contract will remain the property of the City and must be delivered to the Contract Administrator before final payment is made to the Consultant.

When the work detail covers only the preparation of preliminary reports or documents, there will be no limitations upon the City concerning use of the ideas or recommendations in the reports or documents. The City will release the Consultant from any liability for the preparation and use of preliminary reports or documents.

Any use of the project documents for purposes other than intended under this Contract will be at the sole risk of the City, and the Consultant will not be liable for any losses or injuries arising out of that use.

4.26 COMPLETENESS AND ACCURACY

The Consultant will be responsible for the completeness and accuracy of work prepared by the Consultant and will correct, at its expense, all errors or omissions which may be disclosed. The cost to correct those errors will be chargeable to the Consultant. Additional work added to the project will not be the responsibility of the Consultant unless the need for additional work or construction was created by any error, omission, or negligent act of the Consultant. The City's acceptance of the Consultant's work will not relieve the Consultant of any of its responsibilities. The professional standard to which the Consultant is held will be that of a similar Consultant as practiced in the State of Arizona.

4.27 ALTERATIONS OR ADDITIONS TO SCOPE OF SERVICES

The total Scope of the Consulting Services to be performed is stated in this Contract. Any services requested outside the scope of work are additional services. The Consultant will not perform these additional services without a written Change Order approved by the City. If the Consultant performs additional services without a Change Order, the Consultant will not receive any additional compensation.

4.28 EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, the Consultant will follow the Federal government's guidelines to ensure that employees or applicants applying for employment will not be discriminated against because of race, color, religion, sex or national origin.

4.29 EVALUATION OF CONSULTANT'S PERFORMANCE

The Consultant will be evaluated regarding its performance of this Contract. This evaluation may include, but not be limited to, the following consideration for:

- Completeness
- Accuracy
- Technical Expertise
- Organization
- Working relationship with City Staff and others
- Availability
- Communication Skills (meetings, correspondence, etc.)

This evaluation will be prepared by the staff and used to evaluate the desirability to proceed with negotiations for additional services.

4.30 THIRD PARTY BENEFICIARY

Nothing under the Contract Documents will be construed to give any rights or benefits in the Contract Documents to anyone other than the City and the Consultant, and all duties and responsibilities undertaken in accordance with the Contract Documents will be for the sole and exclusive benefit of the City and the Consultant and not for the benefit of any other party.

4.31 CONSULTANT ON SITE SAFETY REPORTING REQUIREMENTS

For any non-construction City supplier whose service Contract(s) (either singular or in aggregate) results in the Consultant working 500 or more hours on site at a City of Scottsdale location(s) in any one calendar quarter, the following documentation must be provided by the Consultant to the Contract Administrator (CA):

- the Consultant's most recent OSHA 300A (if applicable);
- all accident reports for injuries that occurred in the City under the Contract during the most recent review period;
- the Consultant's current worker's compensation experience modifier;
- the above information is to be provided to the CA initially and every February thereafter as long as the Contract is in force

5.0 **INSURANCE**

A current standard Acord Certificate is acceptable.

Failure to provide an appropriate Certificate of Insurance will result in rejection of your certificate and delay in Contract execution.

Additionally, Certificates of Insurance submitted without referencing an RFP and Contract number will be subject to rejection and returned or discarded.

5.1 **Insurance Representations and Requirements**

- 5.1.1 General:** Consultant agrees to comply with all applicable City ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Consultant, Consultant must purchase and maintain, at its own expense, the stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B ++ 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to City of Scottsdale. Failure to maintain insurance as specified may result in termination of this Contract at City of Scottsdale's option.
- 5.1.2 No Representation of Coverage Adequacy:** By requiring insurance, City of Scottsdale does not represent that coverage and limits will be adequate to protect Consultant. City of Scottsdale reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements stated in this Contract or failure to identify any insurance deficiency will not relieve Consultant from, nor be construed or considered a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.
- 5.1.3 Coverage Term:** All insurance required by this Contract must be maintained in full force and effect until all work or services required to be performed under the terms of this Contract are satisfactorily performed, completed and formally accepted by the City of Scottsdale, unless specified otherwise in this Contract.
- 5.1.4 Claims Made:** In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage must extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the work or services as evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required for the three (3) year period.
- 5.1.5 Policy Deductibles and or Self-Insured Retentions:** The policy requirements may provide coverage which contain deductibles or self-insured retention amounts. These deductibles or self-insured retention must not be applicable with respect to the policy limits provided to City of Scottsdale. Consultant is solely responsible for any deductible or self-insured retention amount. City of Scottsdale, at its option, may require Consultant to secure payment of the deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.
- 5.1.6 Use of Subcontractors:** If any work under this Contract is subcontracted in any way, Consultant must execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as stated in this Contract protecting City of Scottsdale and Consultant. Consultant is responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

5.1.7 Evidence of Insurance and Required Endorsements: Before starting any work or services under this Contract, Consultant must furnish City of Scottsdale with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Consultant's insurer(s) as evidence that policies are placed with acceptable insurers as specified in this Contract and provide the required coverage, conditions, and limits of coverage and that this coverage and the provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the above cited policies expire during the life of this Contract, it is Consultant's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates must specifically cite the following provisions endorsed to the Consultant's policy:

1. City of Scottsdale, its agents, representatives, officers, directors, officials and employees must be named an Additional Insured under the following policies:
 - a) Commercial General Liability
 - b) Auto Liability
 - c) Excess Liability - Follow Form to underlying insurance as required.
2. Consultant's insurance must be primary insurance as respects performance of subject Contract.
3. All policies, except Professional Liability insurance, if applicable, waive rights of recovery (subrogation) against City of Scottsdale, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Consultant under this Contract.
4. If the Consultant receives notice that any of the required policies of insurance are materially reduced or cancelled, it will be Consultant's responsibility to provide prompt notice of same to the City, unless such coverage is immediately replaced with similar policies.

5.2 Required Coverage

5.2.1 Commercial General Liability: Consultant must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy must cover liability arising from premises, operations, independent Contractors, products-completed operations, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this section, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying.

5.2.2 Professional Liability: If the Contract is the subject of any professional services or work, or if Consultant engages in any professional services or work adjunct or residual to performing the work under this Contract, Consultant must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liable, with a liability insurance limit of \$1,000,000 each claim and \$2,000,000 all claims.

5.2.3 Vehicle Liability: Consultant must maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired, and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Contract. If any hazardous material, as defined by any local, state or federal authority, is the subject, or transported, in the performance of this Contract, an MCS 90 endorsement is required providing \$5,000,000 per occurrence limits of liability for bodily injury and property damage. If any Excess insurance is utilized to fulfill the requirements of this section, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying.

5.2.4 Workers Compensation Insurance: Consultant must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's employees engaged in the performance of work or services under this Contract and must also maintain Employers' Liability Insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

6.0 SEVERABILITY AND AUTHORITY

6.1 SEVERABILITY

If any term or provision of this Contract is found to be illegal or unenforceable, then despite this illegality or unenforceability, this Contract will remain in full force and effect and the term or provision will be considered to be deleted.

6.2 AUTHORITY

Each party warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

7.0 REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION I.R.S. W-9 FORM

Upon request, the Consultant shall provide the required I.R.S. W-9 Form which is available from the IRS website at www.IRS.gov under their forms section.

8.0 DATA CONFIDENTIALITY

A. As used in this Contract, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Consultant in the performance of this Contract.

B. The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Consultant in connection with the Consultant's performance of this Contract is confidential and proprietary information belonging to the City.

C. The Consultant will not divulge data to any third party without first obtaining the written consent of the City. The Consultant will not use the data for any purposes except to perform the services required under this Contract. These prohibitions will not apply to the following data provided the Consultant has first given the required notice to the City:

1. Data which was known to the Consultant before its performance under this Contract unless the data was acquired in connection with the Work performed for the City;

2. Data which was acquired by the Consultant in its performance under this Contract and which was disclosed to the Consultant by a third party, who to the best of the Consultant's knowledge and belief, had the legal right to make disclosures and the Consultant is not otherwise required to hold the data in confidence; or
 3. Data which is required to be disclosed by virtue of law, regulation, or court order to which the Consultant is subject.
- D. In the event the Consultant is required or requested to disclose data to a third party, or any other information to which the Consultant became privy as a result of any other Contract with the City, the Consultant will first notify the City as required in this Section of the request or demand for the data. The Consultant will give the City sufficient facts so that the City can be given an opportunity to first give its consent or take any action the City may consider appropriate to protect the data or other information from disclosure.
- E. Unless prohibited by law, within ten (10) days after completion of services for a third party on real or personal property owned or leased by the City, the Consultant will promptly deliver, as stated in this Section, a copy of all data to the City. All data will continue to be subject to the confidentiality requirements of this Contract.
- F. The Consultant assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Consultant, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section will be considered to cause irreparable harm that justifies injunctive relief in court.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

The City of Scottsdale by its Mayor and City Clerk has subscribed their names this 3rd day of March, 2015.

CITY OF SCOTTSDALE

By: _____
W. J. "Jim" Lane, Mayor

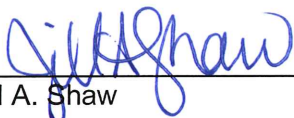
ATTEST:

CONSULTANT:

Heinfeld, Meech & Co., P.C.
3033 N. Central Ave., Suite 300
Phoenix, AZ 85012

Telephone: 602-277-9449
Fax: 602-277-9297

By: _____
Carolyn Jagger, City Clerk

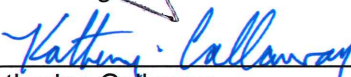
By:  _____
Jill A. Shaw

CITY OF SCOTTSDALE REVIEW:

CITY CONTRACT ADMINISTRATOR:

By:  _____
Sharron Walker, City Auditor


By: _____
James Flanagan
Purchasing Director

By:  _____
Katherine Callaway
Risk Management Director

APPROVED AS TO FORM:

Bruce Washburn, City Attorney

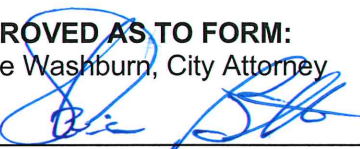
By:  _____
Steven Bennett
Deputy City Attorney

EXHIBIT A**SCHEDULE OF PROFESSIONAL FEES AND EXPENSES**
FOR THE YEAR ENDED JUNE 30, 2015**COMBINING SCHEDULE – ALL SERVICES**

<u>Name of Service to be Provided</u>	<u>Total Hours</u>	<u>Total Price</u>
CAFR Audit	500	\$ 53,500
Independent Auditor's Report on the AELR	15	\$ 1,600
Independent Auditor's Report affirming compliance with HURF requirements	10	\$ 1,100
Single Audit, Data Collection Form & HUD FDS & REAC	150	\$ 16,050
City of Scottsdale Municipal Property Corporation Audit	25	\$ 2,690
Scottsdale Preserve Authority Audit	25	\$ 2,690
Scottsdale Mountain Community Facilities District Audit	20	\$ 2,150
McDowell Mountain Community Facilities District Audit	20	\$ 2,150
DC Ranch Community Facilities District Audit	20	\$ 2,150
Via Linda Road Community Facilities District Audit	20	\$ 2,150
Scottsdale Waterfront Commercial Community Facilities District Audit	20	\$ 2,150
TOTAL		\$ 88,380

EXHIBIT A

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES
FOR THE YEAR ENDED JUNE 30, 2015:
COMBINING SCHEDULE – ALL STAFF CHARGES

	<u>Hours</u>	<u>Standard Hourly Rates</u>	<u>Quoted Hourly Rates</u>	<u>Total</u>
Partner	<u>70</u>	<u>\$ 230</u>	<u>\$ 220</u>	<u>\$ 15,400</u>
Managers	<u>120</u>	<u>\$ 160</u>	<u>\$ 135</u>	<u>\$ 16,200</u>
Supervisory Staff	<u>320</u>	<u>\$ 125</u>	<u>\$ 100</u>	<u>\$ 32,000</u>
Staff	<u>290</u>	<u>\$ 100</u>	<u>\$ 82</u>	<u>\$ 23,780</u>
Other (specify):				
<u>Administrative</u>	<u>25</u>	<u>50</u>	<u>40</u>	<u>\$ 1,000</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>\$</u>
Subtotal				<u>\$ 88,380</u>
Out-of-pocket expenses:				<u>\$ (included)</u>
Meals and lodging				<u>\$ (included)</u>
Transportation				<u>\$ (included)</u>
Other (specify):				
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>\$ (included)</u>
Total all-inclusive fixed firm contract price for the year ended June 30, 2015				<u>\$ 88,380</u>

